



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 27, 1995

Mr. Allen M. Hymans
Executive Director
Texas State Board of Podiatric
Medical Examiners
P.O. Box 12216
Austin, Texas 78711

OR95-1148

Dear Mr. Hymans:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36016.

The Texas State Board of Podiatric Medical Examiners (the "board") received a request for information concerning a specific physician. You contend that the requested information is confidential by law. *See* Gov't Code § 552.101. We agree.

The proceedings and records of a medical peer review committee are confidential. V.T.C.S. art. 4495b, § 5.06(g). However, we note that section 5.06(h) provides that

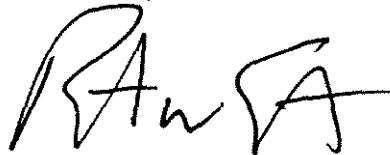
Written or oral communications made to a medical peer review committee and the records and proceedings of such a committee *may be disclosed* to another medical peer review committee, appropriate state or federal agencies, national accreditation bodies, or the state board of registration or licensure of this or any other state.
[Emphasis added.]

See also id. § 1.03(a)(6) (defining "medical peer review committee" and "professional review body"). The requestor is CIGNA Credentialing/Peer Review body. You do not indicate whether the requestor meets the statutory definition of a "medical peer review committee." However, should you determine that the requestor meets the statutory

definition, subsection (h) would allow you to disclose the requested information.¹ Accordingly, unless the board determines that the requestor is a "medical peer review committee," the board must withhold the requested information from required public disclosure under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/LBC/rho

Ref: ID# 36016

Enclosures: Submitted documents

cc: Ms. Donna Ward
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(w/o enclosures)

¹We note that the language in subsection (h) is discretionary. This subsection states that the information "may" be disclosed, not that it *must* or *shall* be disclosed. The word "may" is generally regarded as permissive in character. See, e.g., *Bloom v. Texas State Board of Examiners of Psychologists*, 492 S.W.2d 460, 462 (Tex. 1973) (use of word "may" in V.T.C.S. art. 4512c, § 15(b) means that board has discretion in its administration of statute's stated standards); *San Angelo National Bank v. Fitzpatrick*, 30 S.W. 1053, 1054 (Tex. 1895) ("in its primary and ordinary signification, [may] is a word of permission, and not a word of command").